

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sylvia Davidovicz	Team: Squad #12	CCRB Case #: 201910311	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 11/01/2019 1:00 AM	Location of Incident: [REDACTED]	Precinct: 06	18 Mo. SOL 5/1/2021	EO SOL 12/16/2021	
Date/Time CV Reported Fri, 11/29/2019 10:02 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/29/2019 10:02 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Caparelli	06269	930334	PSA 4

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Stephanie Locicero	05654	954074	SVD Z3
2. POF Lanesha Riley	03015	954271	SVD Z3

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Caparelli	Force: Police Officer Daniel Caparelli used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Daniel Caparelli	Force: Police Officer Daniel Caparelli used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On November 29, 2019, § 87(2)(b) called the CCRB to make a complaint. On November 1, 2019, the night of the Halloween Parade, at approximately 1:00 AM, § 87(2)(b) was in the vicinity of § 87(2)(b) in Manhattan with three acquaintances. When § 87(2)(b) attempted to verbally dissuade one of his acquaintances from fighting with a stranger, Police Officer Daniel Caparelli of PSA 4 approached them. PO Caparelli lightly pushed § 87(2)(b) to the side with his arm (**Allegation A: Force**, § 87(2)(g)). PO Caparelli then turned back to § 87(2)(b) and pushed him, more forcefully, four times in the chest (**Allegation B: Force**, § 87(2)(g)). No arrests or summonses were issued during this incident.

None of the subject or witness officers in this case were equipped with body worn cameras and the investigation was unable to obtain surveillance footage from the businesses near the incident location, so there is no video evidence for this case.

Findings and Recommendations

Allegation (A) Force: PO Daniel Caparelli used force against § 87(2)(b)

In his CCRB interview, § 87(2)(b) stated that on the night of the Halloween Parade, he went with two friends and an acquaintance he knew only as § 87(2)(b) to § 87(2)(b), located at § 87(2)(b) in Manhattan (Board Review 01). § 87(2)(b) did not state whether he attended the parade itself or was just a part of the large crowd in the vicinity of the parade route. § 87(2)(b) stated that he was not under the influence of narcotics or alcohol at the time of the incident. § 87(2)(b) got into an argument with an individual who § 87(2)(b) believed to be a security guard inside of the restaurant. When § 87(2)(b) left the restaurant, the security guard followed him to the sidewalk. The two men stood about six inches apart and § 87(2)(b) believed that they were about to fight. § 87(2)(b) attempted to stop them from fighting by standing between them and telling § 87(2)(b) to calm down. PO Caparelli, who later provided his badge number to § 87(2)(b) approached the three men. Without saying anything to § 87(2)(b) prior to making physical contact, PO Caparelli pushed § 87(2)(b) to the side with a small amount of force, sweeping his arm out sideways, and then looked at § 87(2)(b). After this push, § 87(2)(b) was about two feet away.

None of the subject or witness officers were equipped with body-worn cameras at the time of the incident, so no BWC footage exists. Some businesses near the location of the incident have street-facing surveillance cameras, but § 87(2)(b) made his complaint 28 days after the incident and any surveillance footage that may have captured the incident was deleted before it could be requested.

In his statement to the CCRB, PO Caparelli affirmed that he interacted with § 87(2)(b) on the night of the Halloween Parade (Board Review 02). From across the street, PO Caparelli witnessed three men yelling at each other but not physically fighting. PO Caparelli approached the group with two other officers. When PO Caparelli reached the group, § 87(2)(b) told him that he was trying to break up the argument between the other two men. PO Caparelli told § 87(2)(b) to step away from the arguing men. PO Caparelli swept his arm out to the side, causing § 87(2)(b) to move away. PO Caparelli stated that he swept his arm out for his own safety, in order to create space between himself and § 87(2)(b). PO Caparelli did not know if his arm connected with § 87(2)(b)'s body.

The Patrol Guide, section 221-01 states, “Force may be used when it is reasonable to ensure the safety of a member of the service (Board Review 10). The section states that officers should use “only the reasonable force necessary to gain control [...] of a subject.”

Both § 87(2)(b) and PO Caparelli described PO Caparelli's pushing § 87(2)(b) to the side in the same way. PO Caparelli was not sure if his arm touched § 87(2)(b) but did not deny that he may have pushed § 87(2)(b) to the side. Both § 87(2)(b) and PO Caparelli stated that § 87(2)(b) and the security guard seemed like they were going to fight, showing that it was reasonable to assume that there was a risk of violence and therefore a need for PO Caparelli to take action to protect himself. PO Caparelli and § 87(2)(b) stated that PO Caparelli used a small amount of force to push § 87(2)(b) to the side, and PO Caparelli stated that the push was necessary for his own protection. According to the Patrol Guide, defending a member of service from potential harm is an acceptable reason to use a small amount of force.

§ 87(2)(g)

Allegation (B) Force: Officer Daniel Caparelli used force against § 87(2)(b)

In his CCRB interview, § 87(2)(b) stated that he was about two feet away from PO Caparelli following the first push. A few seconds after sweeping § 87(2)(b) to the side, PO Caparelli turned to § 87(2)(b) and pushed him four times in the sternum with one open hand. As he pushed him, PO Caparelli said, "Move," and, "Get back." Each push was forceful enough to cause § 87(2)(b) to stumble back by a few steps. § 87(2)(b) did not sustain any injuries as a result of the pushes. § 87(2)(b) asked PO Caparelli why he had pushed him. PO Caparelli replied that it was because he had seen § 87(2)(b) "step up" to § 87(2)(b) as if preparing to fight him. § 87(2)(b) stated that he believed PO Caparelli pushed him and not § 87(2)(b) because § 87(2)(b) is black and § 87(2)(b) is white.

PO Caparelli stated that he had no physical contact with § 87(2)(b) beyond possibly touching him with his arm when he pushed him to the side. PO Caparelli stated that he ended the dispute between § 87(2)(b) and the security guard by telling them to leave the area and without using any additional physical force. PO Caparelli stated that he did not use any force beyond this single arm sweep against § 87(2)(b). The civilians left the area after PO Caparelli intervened. From about 20 feet away, § 87(2)(b) shouted at PO Caparelli and asked for his badge number, which PO Caparelli provided. § 87(2)(b) did not complain of pain or ask for medical attention.

In their CCRB interviews, both Detective Stephanie Locicero (Board Review 03) and PO Lanesha Riley (Board Review 04) stated that they did not see the any interactions between PO Caparelli and civilians because the area was crowded and it was raining. Neither recalled seeing or interacting with § 87(2)(b). Neither witnessed any use of force by a member of service against a civilian on the night of the incident.

There is no video evidence, either from body-worn cameras or private business surveillance cameras. There is also no independent civilian witness testimony. In his CCRB interview, § 87(2)(b) provided a phone number for his friend, § 87(2)(b) who was present during the incident. The undersigned investigator attempted to contact § 87(2)(b) by phone on December 5, 2019 but was unable to reach him (Board Review 08). § 87(2)(b) did not provide the contact information of any of the other civilians who were present during the incident and the investigation was unable to find more potential witnesses.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
§ 87(2)(b)
■ § 87(2)(b)
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- PO Caparelli has been a member-of-service for 17 years and has been a subject in six complaints and nine allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- According to an Office of Court Administration search performed on March 31, 2020, § 87(2)(b) has no history of criminal convictions within New York City (Board Review 05).
- As of April 6, 2020, § 87(2)(b) is suing the NYPD and the City of New York for \$500,000 in relation to this incident, for “police misconduct, assault and prejudice.” This suit was filed on January 29, 2020 (Board Review 09).

Squad No.: 12

Investigator: Sylvia Davidovicz Inv. Sylvia Davidovicz 04/15/2020
Signature Print Title & Name Date

Squad Leader: Carlmais Johnson IM Carlmais Johnson April 15, 2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date